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REMARKS

Claims 1 through 14 have been examined. Applicants gratefully acknowledge the indication of allowable subject matter with regard to Claims 12-14. Applicants also note that the Examiner has rejected Claims 1-11. Specifically, the Examiner has cited several references in order to allege that Claims 1, 4, 5, 9, and 10 are anticipated and Claims 2, 3, 6, 7, 8, and 11 are obvious. In light of the amendment made herein to independent Claims 1, 4, and 10 along with the related arguments below, Applicants respectfully disagree.

Independent Claim 1 has been rejected under 35 USC 102(e) by Kim et al. (USP 6,456,850) and independent Claims 4 and 10 have been rejected under 35 USC 102(b) by Kotzin et al. (USP 5,796,722). In order to clarify that which Applicants believe to be the intended scope of protection defined by the claims, the language of independent Claims 1, 4, and 10 have each been amended to clearly reflect that load balancing of voice and data traffic includes converting the carrier from voice and data traffic to voice-only traffic when a predetermined maximum level of carrier loading is exceeded – the maximum level being defined so as to ensure acceptable quality of communications. Original support for this additional claim language can be found in at least paragraphs 36 and 37 of the originally filed specification. More specifically, Claim 1 clearly recites:

A method of balancing voice and data traffic in a wireless communications network, said method comprising the steps of: establishing a maximum load value for at least one of a voice or data traffic on a carrier; and maintaining loading on said carrier at a level no greater than said established maximum load value by converting said carrier from voice and data traffic to voice-only traffic upon exceeding said established maximum load value; wherein said established maximum load value is a

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threshold defined to ensure acceptable quality of communications. (bolding added for emphasis)

Applicants respectfully submit that no such conversion of the carrier is shown or described within the Kim et al. reference as applied to the Claim 1 of the present invention. Accordingly, as this claimed feature is not found within the prior art of record, Applicants submit that this 102 rejection should be withdrawn.

Still further, Applicants submit that Claim 4 clearly recites:

A method of balancing voice and data call loads, said method comprising: dynamically managing relative voice and data call loading among one or more carriers to a prescribed quality of service level **by converting at least one of said one or more carriers from voice and data traffic to voice-only traffic upon exceeding a carrier load value defined to ensure acceptable quality of communications.** (bolding added for emphasis)

As well, Applicants submit that Claim 10 clearly recites:

A system operable to balance voice and data traffic in a wireless communications network, said system comprising: a call controller operable to maintain call loading on a carrier at a level not to exceed a predetermined maximum level for at least one of voice or data traffic in the carrier **by converting said carrier from voice and data traffic to voice-only traffic upon exceeding said predetermined maximum level, wherein said predetermined maximum level is defined to ensure acceptable quality of communications.** (bolding added for emphasis)

Applicants respectfully submit that no such conversion of the carrier is shown or described within the Kotzin et al. reference as applied to Claims 4, 5, 9, and 10 of the

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present invention. Accordingly, as this claimed feature is not found within the prior art of record, Applicants submit that this 102 rejection should also be withdrawn.

Applicants further submit that the remaining prior art of record fails to show or fairly suggest the claimed conversion of the carrier to voice-only traffic to provide load balancing of voice and data traffic. Specifically, the obviousness rejections under 103 are believed to be moot as the base references from which the obviousness rejections stem cannot support the base rejection. As each of Claims 1, 4, and 10 are independent claims are believed to be allowable over the cited bases references and the remaining dependent Claims 2-3, 5-9, and 11 each depend directly or indirectly from allowable claims 1, 4, and 10, Applicants respectfully submit that the 103 rejections of Claims 2-3, 5-9, and 11 should also be withdrawn.

New Claims 15 through 20 have been added in order to further detail the generic Claims 1, 4, and 10. Specifically, the manner in which converting a voice and data carrier to a voice-only carrier is further delineated by way of new Claims 15 through 20. Original support for the additional language of Claims 15, 17, and 19 can be found in at least paragraph 38 of the originally filed specification which details that data traffic can be removed via hard handoff to convert the carrier to voice-only. Original support for the additional language of Claims 16, 18, and 20 can be found in at least paragraphs 39 and 40 of the originally filed specification which details that data traffic can be removed via graceful migration to convert the carrier to voice-only.

As support for the claim language added by this amendment can be found in at least paragraphs 36 through 40 of the originally filed specification, no new matter is believed to exist. Further, no new issues are believed to exist as such newly claimed features in terms of the conversion of the carrier to voice-only traffic to provide load balancing of voice and data traffic where found in at least Claim 12 as originally presented. As Claim 12 has been found to be allowable by the Examiner, Applicants believe that the remaining claims should also be found allowable.

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CONCLUSION

Applicants respectfully submit that Claims 1 through 14 are not shown or fairly suggested by the cited references taken alone or in any combination. Accordingly, the outstanding rejections should be withdrawn.


No additional fee is believed due for this submission. However, Applicant authorizes the Commissioner to debit any required fee from Deposit Account No. 501593, in the name of Borden Ladner Gervais LLP. The Commissioner is further authorized to debit any additional amount required, and to credit any overpayment to the above-noted deposit account.

It is submitted that this application is now in condition for allowance, and action to that end is respectfully requested.

Respectfully submitted,

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